



United States Government

NATIONAL LABOR RELATIONS BOARD

Region 30

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June 27, 2005

Ms. Jeanne M. Harrelson
34 Apple Hill Circle
Madison, WI 53717

**Re: CUNA Mutual Ins. Group.
Case 30-RD-1420**

Dear Ms. Harrelson:

The Region has carefully investigation and considered your petition in the above-captioned case, petitioning for an investigation and determination of representatives under Section 9(c) of the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have concluded that further proceedings are not warranted, and I am dismissing your petition for the following reasons:

I have determined that under *Master Slack Corp.*, 271 NLRB 78 (1984), a causal connection exists between the Employer's unfair labor practices and the employees' subsequent disaffection with the Union such that the petition is tainted and must be dismissed.

The petition was filed on September 15, 2004. Prior to the filing of the petition, the Union had filed a charge and a series of amended charges in Case 30-CA-16807, commencing on April 23, 2004, alleging that the Employer had violated Sections 8(a)(1), (2), (3), and (5) of the Act. In December 2004, I found there was merit to a significant number of the allegations. Following the merit determination, the Union and the Employer entered into an Informal Board Settlement, which was approved on January 25, 2005.¹ The Employer complied with all the terms of the settlement agreement, including posting the Notice to Employees, and the case was closed on June 15, 2005. During the compliance period, the Employer and the Union continued their contract negotiations and reached a new agreement, which the Union membership ratified on June 16, 2005.

To determine whether a causal relationship exists between unfair labor practices and the subsequent expression of employee disaffection with an incumbent union, the Board in *Master Slack*, supra, identified several relevant factors. These factors include: (1) the length of time between the unfair labor practices and the withdrawal of recognition or the filing of the petition;

¹ A copy of the Informal Settlement and Notice to Employees is enclosed.

(2) the nature of the illegal acts, including the possibility of their detrimental or lasting effect on employees; (3) any possible tendency to cause employee disaffection from the union; and (4) the effect of the unlawful conduct on employee morale, organizational activities, and membership in the union. *Overnite Transportation Co.*, 333 NLRB 1392, 1393 (2001) citing *Master Slack*, 271 NLRB at 84.

Virtually all the meritorious allegations of unfair labor practices took place throughout a seven month period immediately preceding the filing of the petition. These alleged unfair labor practices included the Employer's: engaging in an overall pattern of bad faith bargaining with the Union concerning a successor contract; engaging in direct dealing with employees regarding its contract proposals; providing unlawful assistance to a group of employees seeking to form a separate professional unit; unilaterally transferring bargaining unit work out of the unit; making unilateral rule changes; engaging in unlawful interrogations and surveillance of employees concerning bargaining issues and the Union's corporate campaign; making disparaging statements about the Union; threatening employees with a lockout, layoffs, or outsourcing in response to the Union's corporate campaign; disciplining or threatening to discipline employees for making statements critical of the Employer's bargaining position; and failing to provide the Union with information.

Applying the *Master Slack* factors, I find that dismissal of the petition is appropriate because the alleged unfair labor practices: took place in a continuing period immediately prior to the filing of the petition; were serious, pervasive, and carried out over a sustained period of time, and, consequently had a lasting effect on employees; and were of a nature which would unquestionably cause employee disaffection from the Union. The alleged unfair labor practices, therefore, tainted the petition. I also find that *Saint Gobain Abrasives, Inc.*, 342 NLRB No. 39 (2004) is distinguishable. *Saint Gobain* involved a single, unilateral change on a single subject, while, in this case, the Employer's alleged unfair labor practices were pervasive and serious. Moreover, the Board in *Saint Gobain* did not overrule *Master Slack* but merely limited its application to cases where the employer committed more than a single, isolated unilateral change. I further find that dismissal is appropriate, even though there is an executed Informal Board Settlement, pursuant to *Douglas-Randall, Inc.* 320 NLRB 431 (1995). In *Douglas-Randall*, the Board upheld the dismissal of a petition filed prior to the settlement agreement but subsequent to the onset of the alleged unlawful conduct.

Your Right to Seek Review. The National Labor Relations Board's Rules and Regulations permit any party to obtain a review of this action by filing a request (eight copies) with the Executive Secretary. If you wish to seek review of this action, your attention is directed to the following.

Review Request Due Date: The request for review must be received by the Executive Secretary in Washington, D.C. by the close of business at 5:00 p.m. (ET) on July 11, 2005. However, if you mail the request for review, it will be considered timely if it is postmarked no later than one day before the due date.

Other Electronic Filings: In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with the Board in Washington, DC. If a party wishes to file one of these documents electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" on the National Labor Relations Board web site: www.nlrb.gov.

Extension of Time to File Request for Review: Upon good cause shown, the Board may grant special permission for a longer period within which to file. A request for an extension of time should be submitted to the Executive Secretary. A copy of any such request for extension of time should be submitted to me and to each of the other parties to this proceeding and the copy must be served in the same or faster manner as that utilized in filing the request with the Board.

Request for Review Contents: Any request for review (eight copies) must contain a complete statement setting forth the facts and reasons upon which it is based. You should send a copy of the request for review to me. The request for review must be served in the same or faster manner as that utilized in filing the request with the Board.

Address for Request for Review: The request for review should be sent to the Executive Secretary, National Labor Relations Board, 1099 14th Street, N.W., Washington, DC 20570.

Very truly yours,

/s/ Irving E. Gottschalk
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Acting Regional Director

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VIA E-MAIL